

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-02-10
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ORDER APPROVING SETTLEMENT

(Issued May 29, 2003)

INTRODUCTION AND PROCEDURAL HISTORY

On November 26, 2002, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) an application for determination of ratemaking principles for the proposed 750 megawatt (MW) Council Bluffs Energy Center Unit 4 (CBEC-4), a coal-fired generating facility located at MidAmerican's existing Council Bluffs Energy Center in Council Bluffs, Iowa. MidAmerican filed supplemental testimony on February 26, 2003, indicating CBEC-4 was now planned as a 790 MW facility. MidAmerican's schedule provides for the unit to be in-service in the summer of 2007. This is the third ratemaking principles proceeding, but the first involving a coal-fired facility. The other two proceedings, one by MidAmerican and the other by Interstate Power and Light Company, were for gas-fired generation.

Ratemaking principles proceedings are conducted pursuant to Iowa Code § 476.53 (2003). Section 476.53 was enacted during the 2001 legislative session as part of House File 577. This section provides that when defined new electric generation is constructed by a rate-regulated public utility, the Board, upon request, shall specify in advance, by order issued after a contested case proceeding, the

ratemaking principles that will apply when the costs of the new facility are included in electric rates. Section 476.53(1) states that the general assembly's intent in enacting the legislation is to "attract the development of electric power generating and transmission facilities within the state . . ."

MidAmerican will be the operator of CBEC-4, but not the sole owner. Various other entities, including several municipal utilities, will own various percentages of the plant. MidAmerican's ownership share is 60 percent, or in excess of 300 MW. Section 476.53 provides that one of the facilities for which ratemaking principles are available is a baseload unit with a nameplate capacity of 300 MW or greater. The proposed MidAmerican facility qualifies for ratemaking principles as a baseload facility in excess of 300 MW. No one disputed that section 476.53 applies to MidAmerican's share of CBEC-4.

In addition to the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Ag Processing Inc. (Ag Processing), and Interstate Power and Light Company (IPL) intervened in this proceeding. All parties, except IPL, submitted prefiled testimony. On March 25, 2003, MidAmerican and Consumer Advocate filed a joint motion for approval of a settlement agreement that would resolve all issues in this proceeding. Ag Processing filed on April 11, 2003, a motion to withdraw its intervention, which the Board granted by order issued April 21, 2003. IPL did not oppose the settlement. A clarification and modification of the proposed settlement was filed on April 28, 2003. The hearing scheduled in the docket was cancelled.

Although Iowa Code § 476.53(3)"d" allows the ratemaking principles proceeding to be combined with a proceeding for issuance of a generation certificate

under Iowa Code chapter 476A, the two proceedings were not combined here.

MidAmerican's application for a generating certificate was the subject of a separate docket, Docket No. GCU-02-1. The Board granted the certificate, subject to MidAmerican obtaining final pre-construction permits, by order issued January 23, 2003.

The terms and conditions of the proposed settlement are interrelated with the terms and conditions of a wind power stipulation. Although the wind power stipulation has not been filed with the Board for approval, a copy of the stipulation was attached to the Docket No. RPU-02-10 settlement. The wind power stipulation includes an agreement between MidAmerican and Consumer Advocate with respect to ratemaking principles for a 310 MW wind power facility. If MidAmerican determines not to construct this facility for any reason other than specified in Article VIII of the stipulation, Consumer Advocate may terminate the ratemaking principles agreement with respect to the coal plant. The Board anticipates the wind power stipulation will be formally filed with the Board for approval in the near future.

CONDITIONS PRECEDENT

Before determining the applicable ratemaking principles, the Board must make two findings pursuant to Iowa Code § 476.53(3)"c." These are conditions precedent to a determination of ratemaking principles, because if the Board cannot make these findings, the utility cannot receive ratemaking principles. First, the Board must determine that the public utility has in effect a Board-approved energy efficiency plan. Second, the utility must demonstrate that it has considered other sources for long-

term supply and that the facility is reasonable when compared to other feasible alternative sources of supply.

MidAmerican has in effect a Board-approved energy efficiency plan.

MidAmerican witness Stevens provided prefiled testimony regarding MidAmerican's energy efficiency plan. MidAmerican also demonstrated in the prefiled testimony of witnesses Graves, Stevens (pp. 4-46), Foster (pp. 4-7, 9-11), Guyer (pp. 3-16), and Kruempel (pp. 7-8) that it had considered other sources for long-term electric supply and that CBEC-4 is reasonable when compared to other feasible alternative sources of supply. The statute does not require that CBEC-4 be the least-cost alternative, but a reasonable alternative, to other sources of supply.

SUMMARY OF SETTLEMENT

The settlement, as clarified and modified on April 28, 2003, provides for a 12.29 percent return on equity for CBEC-4 and on-site transmission. The return is not intended to apply to additional substation and transmission costs discussed in the application. This is an important distinction because the ratemaking principles proceeding appears to be available only for defined generation facilities, not for off-site transmission improvements that may be needed.

In addition, the return on equity "is for settlement purposes only and is not to be used to support the reasonableness of any proposed transmission return on equity or other regulated return in any regulatory proceeding." (April 28, 2003, modification, p. 2). The Board understands this to mean that MidAmerican will not use the settlement to support any transmission return requested before the Federal

Energy Regulatory Commission (FERC), whether the transmission assets are owned and operated by MidAmerican or leased to an entity such as TRANSLink, an independent transmission company. MidAmerican will also not use the settlement to support the reasonableness of any other requested return before any other regulatory body.

The settlement provides that the actual costs of CBEC-4 shall be recovered in rate base, up to a cost cap. If the cap of \$1.125 billion is exceeded, MidAmerican will have to establish the prudence of costs in excess of the cap in a subsequent Board proceeding. MidAmerican's share of the cap is 60 percent, or \$674.9 million, which could increase proportionately if other joint owners decide not to take their proportionate share of the increase in capacity from 750 MW to 790 MW. The cost cap will also be increased by MidAmerican's share of allowance for funds used during construction (AFUDC) costs that are not recovered under the revenue sharing approach approved in Docket Nos. RPU-01-3 and RPU-01-5.

Another important ratemaking principle contained in the settlement relates to recovery of project cancellation costs. This principle provides that MidAmerican will be able to recover defined costs over a period of five years if work is cancelled on CBEC-4 within four weeks of receiving the later of (1) a final Board order in the CBEC-4 ratemaking principles proceeding, (2) the New Source Review PSD permit, or (3) final Board orders granting acceptable CBEC-4 transmission franchises. Recovery is to include both return of and return on costs.

As part of the settlement, ratemaking principles were included regarding excess capacity, cost recovery of plant AFUDC, capital structure and cost of debt and

preferred securities, and other plant cost components. These principles are consistent with those approved in prior ratemaking principles proceedings.

The settlement included a stipulation between MidAmerican and Consumer Advocate regarding the use of double leverage methodology for ratemaking purposes. MidAmerican withdrew its request for the Board to establish a ratemaking principle applicable to CBEC-4 regarding double leverage adjustments and Consumer Advocate agreed not to advocate or support any double leverage adjustment for MidAmerican's electric or gas operations before January 1, 2011, unless MidAmerican seeks a general electric base rate increase. This stipulation was filed for informational purposes only. The parties do not ask for Board approval and explicitly acknowledge that the Board will treat the application of double leverage as it deems appropriate in future cases.

As noted in the introduction and procedural history, this settlement is interrelated to the terms and conditions of a wind power stipulation that will be filed with the Board at a later date. A copy of the stipulation was attached to the coal plant settlement for informational purposes only. The settlement in this docket provides that, if for any reason other than specified in Article VIII of the wind power settlement, MidAmerican determines not to construct the proposed wind facilities, Consumer Advocate may terminate the coal plant settlement. If Consumer Advocate exercises this option, MidAmerican has the right to refile for ratemaking principles for CBEC-4 and Ag Processing may intervene in this proceeding. Article VIII provides that the stipulation may terminate or be cancelled if certain events do not occur, such as the ability to secure sufficient transmission for the wind facility.

DISCUSSION

No objections to the proposed settlement were filed. Rule 199 IAC 7.2(11) provides that the Board will not approve a settlement unless it “is reasonable in light of the whole record, consistent with law, and in the public interest.”

The ratemaking principles contained in the settlement generally track principles that have been awarded in the prior two ratemaking principles dockets. The 12.29 percent return on equity agreed to by the parties appears to be within the zone of reasonableness given the risks associated with new generation and the intent of section 476.53. In particular, a long-term investment in a coal-fired facility may contain unique risks because of the potential for change in various environmental standards over the facility's useful life. The wind power settlement, which was filed in this docket for informational purposes only, provides for a 12.2 percent return on equity for the wind facility, which can be viewed as a recognition by MidAmerican and Consumer Advocate that there is less risk associated with that investment.

The cost cap, which includes a contingency cost, also appears reasonable. The Board notes that there are at least 14 other owners of the plant. These other owners are likely to closely monitor the project and budget, particularly any change orders that would increase the budget. The cap only applies to CBEC-4 and on-site transmission, not any off-site transmission that will be built.

The project cancellation principle also appears reasonable, allowing MidAmerican to recover identified costs that would be necessary to expend prior to a decision to cancel the project. The double leverage stipulation does not directly

affect the Board because MidAmerican and Consumer Advocate agree the Board has the latitude to make whatever double leverage decision it deems appropriate in any rate proceeding. The remaining principles are similar to those approved in other ratemaking principles proceedings.

While the settlement may not decide each issue the way the Board would have in a contested hearing, the Board, viewing the settlement as a whole, will find it to be reasonable, in the public interest, and not contrary to any law. The settlement will facilitate building the first coal-fired baseload plant in Iowa since the mid-1980's and will further the diversity of Iowa's generation resources. The two gas-fired facilities for which ratemaking principles have been awarded are intermediate or peaking facilities. If the wind facility planned by MidAmerican is ultimately built, generation resources would be further diversified.

FINDINGS OF FACT

1. It is reasonable to find that MidAmerican has in effect a Board-approved energy efficiency plan as required under Iowa Code § 476.6(19).
2. It is reasonable to find that MidAmerican considered other long-term sources of electric supply and CBEC-4 is reasonable when compared to other feasible alternative sources of supply.
3. The ratemaking principles contained in the settlement, as modified on April 28, 2003, are reasonable.
4. The settlement, as modified on April 28, 2003, is reasonable in light of the whole record, consistent with law, and in the public interest.

CONCLUSIONS OF LAW

The Board has jurisdiction of the parties and the subject matter in this proceeding, pursuant to Iowa Code chapter 476 (2003).

ORDERING CLAUSE

IT IS THEREFORE ORDERED:

The settlement filed by MidAmerican Energy Company and the Consumer Advocate Division of the Department of Justice on March 25, 2003, as modified on April 28, 2003, is approved.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 29th day of May, 2003.